

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

In Re:)
)
AREDIA® AND ZOMETA® PRODUCTS)
LIABILITY LITIGATION)
(MDL No. 1760))
)
This Document Relates to:)
Tucker, 3:09-cv-00185)

No. 3:06-MD-1760
Judge Campbell/Brown

ORDER

Plaintiff Loyless Tucker died on April 1, 2012. (MDL Doc. 7116; Related Case 21)
Defendant Novartis Pharmaceuticals Corporation (NPC) filed a suggestion of death on November
11, 2013. (MDL Doc. 7116; Related Case 21)

Counsel for the late Mr. Tucker filed a motion on February 6, 2014 to substitute the late Mr. Tucker's wife, Mildred Tucker (Ms. Tucker), provisionally in this case pending Ms. Tucker "tak[ing] the steps necessary to open the estate in South Carolina." (MDL Doc. 7311, ¶ 4; Related Case 22)
Counsel attached a copy of the late Mr. Tucker's last will and testament in which the late Mr. Tucker designates Ms. Tucker as his personal representative. (MDL Doc. 7311, Ex. 1, ITEM VIII, p. 5; Related Case 22) The attached last will and testament also shows that the late Mr. Tucker has/had three living sons: Ronald, Stephen, and Dennis Tucker. (MDL Doc. 7311, Ex. 1, p. 1; Related Case 22)

NPC filed a response in opposition to the motion on February 7, 2014 arguing that the motion should be denied because counsel has failed to comply with the Case Management Order (CMO) as it pertains to substitution/provisional substitution in this MDL. (MDL Doc. 7313; Related Case 23)
Counsel for the late Mr. Tucker did not reply to NPC's response, and the time to do so has passed.

NPC's argument is well taken – counsel for the late Mr. Tucker has failed to comply with

the CMO as it pertains to substitution/provisional substitution. Therefore, the motion to substitute Ms. Tucker provisionally as the plaintiff in this case (MDL Doc. 7311; Related Case 22) is **DENIED**.

Counsel for the late Mr. Tucker is granted an extension of time until April 2, 2014 to comply with the substitution/provisional substitution provisions of the CMO. If a further extension of time is required, counsel shall provide the following specific information to the Magistrate Judge not later than April 2, 2014: **1)** actions taken to date to open the late Mr. Tucker's estate, and the result(s) of those actions; **2)** the specific difficulties and/or reasons causing the delay in complying with the CMO; **3)** a good faith estimate of when compliance with the CMO might reasonably be expected. Counsel is forewarned that failure to comply with the CMO and this order could result in sanctions being imposed.

It is so **ORDERED**.

ENTERED this 3rd day of January, 2014.

/s/Joe B. Brown
Joe B. Brown
United States Magistrate Judge